THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 3553 OF 2004

DATED: 01-08-2005

Between

1. A.P.S.R.T.C Mushirabad, Hyderabad, represented

by its Managing Director and another …… PETITIONERS

And

Member Secretary, A.P. Pollution Control Board,

II Floor, HUDA Complex, Maitrivanam, S.R. Nagar,

Hyderabad – 38. …… RESPONDENT

THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 3553 OF 2004

ORDER: (per Sri B. Sudershan Reddy, J)

The Andhra Pradesh State Road Transport Corporation invokes the extraordinary

jurisdiction of this Court under Article 226 of the Constitution of India assailing the correctness of the proceedings dated 28-08-2003/04-09-2003 and 28-08-2003 purporting them to be under Section 6 of the Water (Prevention and Control of Pollution) Cess Act, 1977 (for short 'the Act') requiring the petitioners to pay the specified amounts therein for the period specified in the orders.

The main contention raised in the writ petition is that the petitioner – Corporation is not a person carrying on any specified industrial activity within the meaning of Section 2(c) read with Section 16 of the Act. Schedule – I of the Act contains the specified industries and those industries alone can be subjected to assessment to water cess under the provisions of the Act and not any other industry. The specific issue raised by the petitioner – Corporation is that it is not one of the specified industries mentioned in Schedule – I of the Act.

That a bare reading of the impugned order suggests that the same has been issued on the basis of the returns submitted by the Corporation but without making any further enquiry. The question raised is a mixed question of fact and law which cannot be satisfactorily gone into by this Court sitting under Article 226 of the Constitution of India.

In the circumstances, we grant liberty to the petitioners to raise this objection as regards the jurisdiction of the respondent – Board and a speaking order shall be passed. It is needless to direct that the respondent – Board shall not give effect to the impugned orders until the objections raised by the petitioners are disposed of. The petitioner – Corporation shall raise its objections within a period of eight weeks from the date of receipt of a copy of this order and the same shall be considered and disposed of as expeditiously as possible.

The Writ Petition is accordingly disposed of without any order as to costs.

(B. Sudershan Reddy, J)

01..08..2005

(Ramesh Ranganathan, J)

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